IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

MONDAY, THE 12TH FEBRUARY 2007 / 23RD MAGHA 1928

Crl.MC.No. 308 of 2007()

CC.352/2004 of JUDL.MAGISTRATE OF FIRST CLASS COURT-III, PALAKKAD

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PETITIONER: 2ND ACCUSED

SREEJITH, AGED 31 YEARS,
S/O. GOPALAKRISHNAN NAIR, SREENILAYAM,
THURAVOOR P.O., CHERTHALA.

BY ADV. SRI.G.ANANTHANARAYANAN

RESPONDENTS: COMPLAINANT

STATE OF KERALA, REPRESENTED BY
THE SUB INSPECTOR OF POLICE,
HEMAMBIKA NAGAR POLICE STATION, PALAKKAD,
REPRESENTED BY THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM.

BY PUBLIC PROSECUTOR SRI.GIKKU JACOB

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 12/02/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R.BASANT, J

Crl.M.C.No.308 of 2007

Dated this the 12th day of February, 2007

ORDER

The petitioner faces indictment as the 2nd accused in a prosecution, inter alia, under Sections 324 and 447 I.P.C. The case was registered at the time when the petitioner was a student of the Engineering College at Palakkad. The petitioner has not appeared before the learned Magistrate so far. The petitioner apprehends that his application for bail will not be considered by the learned Magistrate on merits, in accordance with law and expeditiously when he appears and applies for bail. In these circumstances, it is prayed that directions under Section 482 Cr.P.C may be issued to the learned Magistrate to release the petitioner on bail on the date of his surrender.

2. It is for the petitioner to appear before the learned Magistrate and explain to the learned Magistrate the circumstances under which he could not earlier appear before the learned Magistrate. I have no reason to assume that the learned Magistrate would not consider such application on merits, in accordance with law and expeditiously. Every court must do the same. No special or specific direction appears to be necessary. Sufficient general directions have already been issued in **Alice George v. The Deputy Superintendent of Police [**2003(1) KLT 339].

3. This Crl.M.C is, in these circumstances, dismissed. But with the specific observation that if the petitioner appears before the learned Magistrate and applies for bail after giving sufficient prior notice to the Prosecutor in charge of the case, the learned Magistrate must proceed to pass appropriate orders on merits and expeditiously - on the date of surrender itself.

4. Hand over a copy of this order to the learned counsel for the petitioner for production before the learned Magistrate.

(R.BASANT, JUDGE)

rtr/-